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# **DEPARTMENT OF THE ARMY**

HEADQUARTERS UNITED STATES ARMY FORCES COMMAND 1777 HARDEE AVENUE SW FORT MCPHERSON GEORGIA 30330-1062

REPLY TO ATTENTION OF

AFLG-PR

1 February 2001

# MEMORANDUM FOR ALL FORSCOM DOCS

SUBJECT: Contracting Information Letter (CIL) 01-12, Change to Army Federal Acquisition Regulation Supplement (AFARS), Subpart 4.90 — Contractor Manpower Reporting

- 1. Reference CIL 01-07 dated 17 January 2001.
- 2. Enclosed is the change to the AFARS Subpart 4.90 as required by 32 CFR 668.

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TONI M. GAINES

Acting Chief, Contracting Division, DCSLOG

### **Change to Army FAR Supplement**

As required by 32 CFR 668, Subpart 4.90 is added as follows:

Subpart 4.90 -- Contractor Manpower Reporting

### 4.9000 Scope

This part sets forth reporting requirements, and related policies and procedures, for labor work year equivalents performed by contractors (also called Contractor Man-year Equivalents (CMEs)) in support of the Army, pursuant to 10 U.S.C. 129a, 10 U.S.C. 2461(g), Section 343 of Public Law 106-65, and 32 CFR 668, Contractor Manhour Reporting Requirement. The information to be reported includes direct and indirect labor hours and their values (including all elements of compensation) related to services performed under covered contracts in support of Army operations and organizations.

# (a) Purpose and Background

- (1) Purpose. The purpose of this data collection and related contractor reporting is to respond to Congressional requests, and to internal Army manpower and force management planning information requirements, to quantify the extent of CMEs used to support Army operations and management broadly under the Federal Supply Class and Service Codes for "Research and Development" and "Other Services and Construction." The data collected will provide essential unprecedented Departmental level visibility of the missions supported and functions performed by contractors in support of major Army missions and organizational elements at the tactical level and higher, by linking the Federal Supply Class and Service Code data to appropriation data and organizational data on an Army-wide basis. This information will also provide visibility of contractor manpower capabilities and labor costs in support of multiple Army missions and functions.
- (b) Background. The lack of adequate and reliable data on the missions supported and functions performed by service contractors, as well as the resources expended by the Department on those contractors on an Army-wide basis, has resulted in uninformed assumptions and decisionmaking in the Planning, Programming and Budgeting System process. This imperfect knowledge, in turn, has led to a failure to properly prioritize or validate the relative importance of missions performed or supported by contractors, as opposed to the very intense prioritization and mission validation decisions made with regard to the Department's expenditures on more visible in-house performance of similar functions, unduly skewing the prioritization of in-house resources and manpower. In addition, the more complete and reliable CME data reported will provide information needed at HQDA to assess whether, and to what extent, contractors may be performing functions that the Army senior leadership has determined to be inherently Governmental, or commercial functions, which, when

contracted out beyond a certain level of reliance, increase operational risks to overall Army mission capabilities and readiness. When evaluating military capabilities in the generating forces and operating forces under the Quadrennial Defense Review and Total Army Analysis simulations, a critical unit of analysis for assessing military capability is the manpower available to perform a function as linked to major Army organizational elements. The capabilities provided by service contractors consume at least one third of the Department's obligation authority; and yet, due to lack of reliable data, senior Army planners lack the ability to assess the total manpower capabilities within a function and major Army organization to the extent that the organization and function may rely heavily on contractor support. The data collected under this reporting requirement remedies these defects by compiling and integrating contractor manpower and cost data in aggregated functional categories associated with the major Army organizational elements, in order to make this critical information visible to HQDA planning and programming officials and senior leadership.

## 4.9001 Policy and Procedures

- (a) *Policy*. These reporting requirements apply to all Department of the Army agencies, commands, and activities and to contracting actions awarded by or for such activities Army-wide, except as set forth in paragraph (c) of this section. The requirements shall be cited and further implemented as necessary in command acquisition instructions and shall be promulgated to procurement and manpower personnel Army-wide. Changes to the administrative aspects of this Subpart 4.90 (such as reporting formats, the Army Web Site, methods of incorporation of the requirements into solicitations and contracts, waivers and exemptions), may be published after coordination with the Office, Deputy Assistant Secretary of the Army (Force Management, Manpower and Resources). The objective of the reporting process is to collect as much significant CME data as possible to allow accurate reporting to Congress and for effective Army planning purposes. The reporting, however, should not be viewed as an "all or nothing" requirement. Even partial reporting, e.g., direct labor hours, appropriation data, place of performance, Army customer, etc., will be helpful.
- (b) <u>Contracting office responsibilities</u>. Contracting officers shall ensure that the reporting requirements set forth in 4.9002 below are included in all covered contract actions. Although every effort has been made to facilitate reporting and to reduce administrative burden on both contractors and contracting offices, there may be situations when a contractor is properly exempt in part or cannot comply with the requirement (e.g., foreign contractor who has no internet access or capability; or is unable to comply without extraordinary costs or effort not recoverable in normal overhead). At the discretion of the contracting officer, contractor self-exemption may be more liberally construed and applied in the case of foreign contractors not reporting as sub-contractors, with contract values generally less than \$200,000, if they lack internet access or are a non-English speaking firm that would have to employ a translator and/or an English speaking financial specialist to calculate, collect and report the required data. In such cases, and in those situations where the contracting officer has inadvertently

failed to include this requirement in covered solicitations and contracts, the contracting officer is required to report the required information, to the best of their ability, by the end of the reporting period (end of contract period or end of fiscal year). Army Heads of Contracting Activities and PARCs shall ensure that contracting offices found to be significantly non-compliant with these requirements directly report the required data to the Army website (https://contractormanpower.us.army.mil). The secure Army website will support surrogate reporting of contract(or) data by contracting offices. Classified contract actions are not, per se, exempt from reporting (guidance at DoD FAR Supplement 48 CFR 202.670-8 applies). Whatever can be reported shall be reported. No report shall contain classified information.

- (c) <u>Covered actions</u>. The contract reporting requirements specified in 4.9002 below shall be included in all Army solicitations issued and contract actions awarded (including orders under GSA Schedule contracts and contracts awarded by other agencies that allow direct ordering by the Army), and all bilateral modifications of existing Army contracts, after March 15, 2000, except the following:
- (1) Contracts valued at \$100,000 or below. Indefinite Delivery contracts estimated to exceed \$100,000 in value shall contain the requirement for reporting of all orders placed in excess of \$25,000. Orders awarded under GSA Schedule contracts, or contracts awarded by non-Army agencies, shall contain the requirement if the value of the order exceeds \$100,000.
- (2) Contracts awarded by an Army contracting office solely as a contracting agent in support of non-Army customer(s) and requirements. The reporting requirement is limited to contractor labor hour and cost data in support of Army customers and requirements. If the organization receiving the benefit of the services is an Army organization, then the contractor labor hour data is reportable as an Army requirement, even though the appropriations funding all or part of the requirement may be other than Army appropriations.
- (3) Contracts for the acquisition of supplies and equipment. The reporting requirement applies only to services covered by Federal Supply Class or Service codes for "Research and Development" and "Other Services and Construction." However, when non-incidental services are discretely included in a contract for supplies and equipment, and can be characterized as "Research and Development" or "Other Services and Construction," contractors shall be required to characterize and report such services. (Example: Ongoing facility management or maintenance and quality assurance services separately priced under the contract.)
- (d) <u>Effective dates for reporting</u>. For covered contracts in effect prior to March 15, 2000, including previously exempt contract actions (such as those entered into under FAR Part 12 procedures prior to December 26, 2000), once the contract is modified to include this reporting requirement, reporting is required retroactive to October 1, 1999, or the start of the contract/order, whichever is later.